

REFERENCE TITLE: production or release of materials

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2354

Introduced by
Representative Farnsworth

AN ACT

AMENDING SECTION 13-3560, ARIZONA REVISED STATUTES; RELATING TO SEXUAL EXPLOITATION OF CHILDREN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 13, chapter 35.1, Arizona Revised Statutes, is
3 amended by adding section 13-3560, to read:

4 13-3560. Disclosure of material

5 A. THE ARIZONA RULES OF CRIMINAL PROCEDURE SHALL NOT BE CONSTRUED TO
6 REQUIRE THIS STATE TO REPRODUCE OR RELEASE FOR EXAMINATION OR TESTING ANY
7 MATERIAL IF THE PRODUCTION OR POSSESSION OF THE MATERIAL IS OTHERWISE
8 PROHIBITED BY THIS CHAPTER. THIS STATE SHALL MAKE THE MATERIAL REASONABLY
9 AVAILABLE FOR INSPECTION SUBJECT TO SUCH CONDITIONS AS ARE NECESSARY TO
10 PROTECT THE RIGHTS OF VICTIMS.

11 B. ON A PROPER AND SUBSTANTIAL SHOWING BY THE DEFENDANT THAT DENYING
12 THE REPRODUCTION OR RELEASE FOR EXAMINATION OR TESTING OF THE MATERIAL WOULD
13 CLEARLY INFRINGE ON THE DEFENDANT'S RIGHT TO A FAIR TRAIL, THE COURT MAY
14 REQUIRE THE REPRODUCTION OR RELEASE FOR EXAMINATION OR TESTING OF THE
15 MATERIAL, SUBJECT TO SUCH TERMS AND CONDITIONS AS ARE NECESSARY TO PROTECT
16 THE RIGHTS OF VICTIMS, TO DOCUMENT THE CHAIN OF CUSTODY AND TO PROTECT
17 PHYSICAL EVIDENCE.

18 C. IN ADDITION TO ANY OTHER TERMS AND CONDITIONS ORDERED BY THE COURT,
19 THE REPRODUCTION OR RELEASE FOR EXAMINATION AND TESTING OF MATERIAL IS
20 SUBJECT TO THE FOLLOWING RESTRICTIONS:

21 1. THE MATERIAL SHALL NOT BE FURTHER REPRODUCED OR DISTRIBUTED EXCEPT
22 AS ALLOWED IN THE COURT'S ORDER.

23 2. THE MATERIAL SHALL BE VIEWED OR POSSESSED ONLY BY THE PERSONS
24 LISTED IN THE COURT'S ORDER.

25 3. THE MATERIAL SHALL NOT BE POSSESSED BY OR VIEWED BY THE DEFENDANT
26 OUTSIDE THE DIRECT SUPERVISION OF DEFENSE COUNSEL, ADVISORY COUNSEL OR A
27 DEFENSE EXPERT.

28 4. THE MATERIAL SHALL FIRST BE DELIVERED TO DEFENSE COUNSEL OR
29 ADVISORY COUNSEL, WHO SHALL BE ACCOUNTABLE TO THE COURT FOR ANY VIOLATION OF
30 THE COURT ORDER OR THIS SECTION.

31 5. THE REPRODUCED MATERIAL SHALL BE RETURNED TO THE PROSECUTOR BY A
32 DEADLINE ORDERED BY THE COURT.